

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
HOME INSURANCE COMPANY	For plaintiff:
vs.	Alfred B. Knight <i>no objection to</i> 310 Beacon Bldg. Tulsa, Oklahoma 74103 918 584-6457
NATIONAL REALTY INVESTORS TRUST OF BOSTON, d/b/a NORTHLAND SHOPPING CENTER; McMICHAEL CONCRETE COMPANY, a corporation, individually and as a successor corporation of McMICHAEL PRECAST CONCRETE CO., I. A. JACOBSON, indivi- dually, and as Trustee of Northside Village Shopping Center, Inc., JACOBSON LIFETIME BUILDINGS, INC., and NORTHSIDE VILLAGE SHOPPING CENTER, INC.,	For Intervenor: Deryl L. Gotcher 1700 Fourth National Bank Bldg. Tulsa, OK 74119 (583-1115)
WILKERSON SHOE COMPANY, a corporation - INTERVENORS - 9-19-73	For defendant:
UNITED NATIONAL CORPORATION (7-2-74)	Best, Sharp , Thomas & Glass (McMichael) Franklin Bldg., Tulsa, Ok. 74103 (582-8877)
Boesche, McDermott & Eskridge NBT Building Tulsa 74103	Bert M. Jones (Nat. Realty) Rhodes, Hieronymus, Holloway & Wilson 2900 Fourth Natl. Bank Bldg. Tulsa, Okla. 74119 (582-1173) A.M. Covington (Jacobson, etc.) 217 Pythian Building Tulsa, Okla. 74103 (585-5537)
Paul McBride (United Natl.) P.O. Box 1439 Tulsa 74101	Dale F. McDaniel (Natl. Realty & Jacob- 2626 E. 21st St. son) Tulsa 74114 (749-7771)

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 8-1-73	Clerk	7/17/73	Knight	15.00	
J.S. 6 mailed 8-1-75	Marshal	7-19-73	C.D.No.59		15 00
Basis of Action: money damage suit	Docket fee				
	Witness fees				
Action arose at:	Depositions				

72-C-226 Consol. of this case

FPI MI-1-3-72-100M-7199

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-17-73	Complaint filed, summons issued. jj	
7-25-73	Return on U.S. Marshals Service, Summons, filed. Served Ntl. Realty Investors Trust of Boston by serving Jim Stovall, Mgr., in Tulsa, OK, on 7-23-73, with fees of \$3.00. Served I.A. Jacobson, in Tulsa, OK, on 7-24-73, with fees of \$7.80. Served McMichael Concrete Co. by serving J. McMichael in Tulsa, OK, with fees of \$3.48. <i>7-19-73</i> Served Jacobson Lifetime Bldg., Inc., by serving I.A. Jacobson in Tulsa, OK, on 7-24-73, with fees of \$3.00. Served Northside Village Shopping Center, Inc., by serving I.A. Jacobson, in Tulsa, OK, on 7-24-73, with fees of \$3.00. v	
8-9-73	Order granting McMichael Concrete Co. until 8-23-73 to answer, filed. (JS-Clk)	
8-13-73	Application of deft. Natl. Realty Investors Trust of Boston, etc. for ext. of time to answer, filed. hm <i>oto y</i>	
8-13-73	<u>Answer</u> of Jacobson Lifetime Bldgs., Inc., by and through I. A. Jacobson, its surviving trustee, & Northside Village Shopping Center, Inc., by and through its successor & trustee, I.A. Jacobson & I. A. Jacobson, individually, filed, with <u>cross-action</u> against defts. McMichael, etc. hm	
8-15-73	Order, filed, granting deft. Natl. Realty Investors Trust of Boston, etc. until 9-12-73 to file answer. (FD-J)hm (copies mailed)	
8-21-73	Application of deft. McMichael Concrete Co. for additional time to answer, filed. hm	
8-22-73	Motion of Wilkerson Shoe Co., to Intervene, filed. v <i>petition</i>	
8-22-73	Brief in Support, filed. v	
8-22-73	Certificate of Service, filed. v -order to Judge, <u>petition held in file.</u>	
8-23-73	Order filed, granting deft McMichael Concrete Co. until 9-12-73 within which to file their answer the cross-claim. (FD-J)r (Copies mailed)	
8-29-73	Ltr dated 8-28-73 from FD to Pltf & Deft, stating that they are to respond to the Mot. to Intervene. If Mot. is opposed by any party it is desired that the Response be accompanied by a brief. 10 days are granted to file Responses. (Due 9-7) filed. r	
9-6-73	Order was entered in Case No. 72-C-226, consolidating w/this case, from Judge Bohanon. r	
9-6-73	Pltf's., National Investors etc., <u>Answer & Cross-Complaint</u> , against McMichael, filed. jj	
9-10-73	Response of pltf. to motion to intervene, filed. hm <i>made</i>	
9-10-73	Response of deft., McMichael Concrete Company, to Mtn. to Intervene, filed. jj <i>made</i>	
9-10-73	<u>Answer</u> to Complaint of McMichael Concrete Company, filed. jj	
9-10-73	<u>Answer</u> to Cross-Claim of McMichael Concrete Company, filed. jj <i>to cross claim of Natl. Inv.</i>	

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-11-73	Response of I. A. Jacobson to mot. to intervene, filed. g <i>mailed</i>	
9-11-73	Response of National Realty Investors Trust of Boston, d/b/a Northland Shopping Center to mot. to intervene, filed. g <i>mailed</i>	
9-13-73	Interrogatories, filed. hm	
9-19-73	Order filed, granting the Motion to Intervene of Wilkerson Shoe. All parties to this consolidated action will answer the same within 15 days (Due 10-4) (FD-J)r (Copies mailed to all parties)	
9-19-73	PETITION IN INTERVENTION, adding Wilkerson Shoe Co., filed. r	
10-4-73	of National Realty Investors Trust of Boston, dba Northland Shopping Center Answer/to petition in intervention and cross-complaint, filed. ds	
10-4-73	Answer of Home Insurance Co. to petition in intervention, filed. ds	
10-4-73	Answer to Pet. in Intervention of Wilkerson Shoe Co. of Jacobson Lifetime Bldgs., Inc., through I.A. Jacobson, its surviving Trustee and Northside Village Shopping Ctr., Inc. through its successor and Trustee, I.A. Jacobson, & I.A. Jacobson, Ind. <u>AND Cross-Complaint</u> against McMichael, filed. jj	
10-9-73	Answer of McMichael to cross-petition of Jacobson, et al., w/leave of Court to file out of time, filed. (FD-J)rm - copies mailed	
10-16-73	Entry of appearance by Dale F. McDaniel for Natl. Realty & Jacobsons, filed. rm	
10-17-73	Appl. for permission to withdraw as atty. of record for Deft., Ntl. Realty Investors Trust of Boston, etc., filed by the firm of Rhodes, Hieronymus, Holloway & Wilson. v	
10-23-73	Order, filed, allowing Rhodes, Hieronymus, Holloway & Wilson to withdraw as attys. for the Deft., Ntl. Realty Investors Trust of Boston, etc. (FD-J)v -copies mailed to atty.s.	
11-16-73	Ordered by the Court that this case is set for Pre-Trial on 12-7-73 at 10:00 A.M. (FD-J)v -notices mailed.	
11-27-73	Transcript of Jury Trial in No. 72-C-226, filed. jj	
12-7-73	Pre-trial held. Pltf. rep. by Dan Wagner; defs. by Joe Sharp; A. M. Covington, Dale F. McDaniel and Deryl Gotcher (intrvr.) Construction Cos. defs. directed to file brief in 15 days, re statute of limitation; pltf. 15 days thereafter to respond. Pltf. to file judg/over pleading. Intervenor directed to prepare PT order. (FD-J)rm <i>case to be set on NJ docket.</i>	
12-17-73	Ltr., dated 12/12/73, from counsel for defs. Natl. Realty and Jacobsons advising ct. they will not file mo/dismiss, filed. rm	
1-4-74	Interrogatories, filed by deft. McMichael. hm	
1-7-74	MO: Deft. McMichael Concrete Co., etc., is granted an extension until February 15, 1974, to file Brief on Limitations questions; response briefs thereto are to be filed 15 days thereafter. (FD-J)v -cps mld.	
1-9-74	Third party complaint, filed. v -summons issued.	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-17-74	U.S. Marshals Service returned and filed. Executed by serving summons to Northside Village Shopping etc., Jacobson Lifetime Bldgs., I.A. Jacobson etc. and McMichael Concrete, etc., at Tulsa, Okla., 1-10-74; and, National Realty Inv. etc., at Tulsa, Okla., 1-16-74. (USM \$20.04)jj	
1-31-74	Answers to Interrogatories of deft. I. A. Jacobson, filed.jj	
2-1-74	Answer of McMichael Concrete Company to 3rd party complaint of underwriters insurance Company, filed. ds	
2-5-74	Brief in Support of Motion to Dismiss and Deft's Motion to Dismiss filed. e.	
2-6-74	Application for leave to amend answer, filed.s	
2-6-74	Order upon application of the defendant National Realty Inverstors Trust of Boston,. Defendant is granted ten days in which to file answers, filed.s	
2-6-74	Amendment to answer to petition in intervention and cross-complaint of Wilkerson shoe Company, filed.s	
2-6-74	Amendment ot answer and cross-complaint of defendant, National Realty Investord Trust of Boston, D/B/A Northland Shopping Center to the Complaint of Home Insurance Company, filed.s	
2-12-74	Ltr. from FD to counsel, directing them to respond to mo/dismiss 3rd pty. complt., filed by Underwriters Ins., w/brief by 2/26/74.(FD-J)rm	
2-25-74	Mtn. of Deft. National Realty Inv. Trust of Boston, etc., for S/J filed.jj	
2-25-74	Brief in Support of Mtn. for S/J, filed.jj	
2-25-74	Memorandum Brief in Opposition to Mot. to Dismiss, fld. by Pltf., Wilkerson Shoe Company. v	
2-25-74	Response of Deft. & 3rd Pty Claimant, Underwriters Ins. Co., to Mtn. to Dismiss of National Realty, filed.jj	
2-28-74	Reply of Natl. Realty Inv. to Brief of 3rd Pty Pltf., Underwriters Ins. Co., filed.jj	
3-5-74	Letter filed, directing pltf's. Home Ins. Co. and Wilkerson Shoe Co. to respond to motion of deft. National Realty Investors Trust of Boston d/b/a Northland Shopping Center for Summary Judgment, with supporting brief within 15 days from 3-4-74.(FD-J)g	
3-7-74	Response of Underwriters Insurance Co. and Home Insurance Co. to Motion for Summary Judgment of Def. Nat'l Realty Investors Trust of Boston, d/b/a Northland Shopping Center, filed. e	
3-7-74	Response of Plaintiff Wilkerson Shoe Company to Deft. Nat'l Realty Investors Trust of Boston's Motion for Summary Judgment, filed. e	

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D. C. 110A Rev. Civil Docket Continuation

Sheet # 3

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-12-74	RESPONSE of deft. McMichael Concrete Co. to Motion to Dismiss, filed.jj	
6-13-74	Order, filed, overruling Mo/dismiss of def. Natl. Realty and overruling Mo/SJ of def. Natl. Realty. (FD-J)rm - copies mailed of 3rd party pltf., Underwriters	
6-25-74	Application to amend 3rd party complaint and to serve alias summons by publication, filed. ds	
7-2-74	Order, filed, granting 3rd party pltf., (Underwriters Ins.,) permission to file Amended Third Party Complaint and to join United National Corporation, & effect alias service by publ. (FD-J)rm - copies mailed by Underwriters Ins.	
7-5-74	Amended Third Party Complaint, filed/ summons issued. g	
7-5-74	Affidavit for service by publication, filed. g	
7-5-74	Notice by Publication, filed. g	
7-5-74	Affidavit of mailing, filed. g	
7-23-74	Summons, ret. & filed: served United National Corporation by serving John C. Andrews in Oklahoma City, OK on 7-18-74, (Fee \$4.00).k	
7-29-74	Motion to dismiss/Amended 3rd pty complt. of def. Natl. Realty, w/brief and affidavit of I. A. Jacobson in support thereof, filed. rm	
8-7-74	Ans. of deft. United National Corporation to Amended Third Party Complaint, filed. lm	
8-8-74	Ltr., filed, from FD granting 3rd pty. pltf., Underwriters Ins., 15 days to respond to mo/dismiss of 3rd pty def. Natl. Realty. (FD-J)rm	
8-12-74	Response of Underwriters Ins. to mo/dismiss of Natl. Realty, filed.rm	
8-12-74	Brief in support of response to mo/dismiss, filed. rm	
9-11-74	Order, filed, overruling mo/dismiss of NRI and directing NRI to answer 3rd party complaint of Underwriters within 20 days from this date. (FD-J)rm - copies mailed	
9-20-74	Answer of Nat'l Realty Inv. Tr. of Boston, d/b/a Northland Shopping Ctr., I.A. Jacobson, Individ. & as Tr. of Northside Village Shopping Ctr. & Jacobson Lifetime Bldgs. Inc., & Northside Village Shopping Ctr. Inc., to amended Third-party complaint of Underwriters Ins. Co. b	
1-2-75	MO: Ordered by the Court that this case is set for further pre-trial conference at 2:30 p.m. on 1/8/75. (FD-J)rm - notices mailed	
1-8-75	Further pre-trial conf. held. Parties rep. by counsel of record. Parties to file simultaneous briefs in 15 days, re statute of limitations, "dominant" cause and test of liability - 15 days to respond. Intervenor directed to prepare pt order. (FD-J)rm	
1-13-75	Pltf's interrog. to McMichael Concrete Corp., filed.k	
1-14-75	Pltf's interros. to National Realty Investors Trust of Boston dba Northland Shopping Center, filed. g	
1-24-75	Pltf's Brief on two-year limitation period, filed. lm	
1-24-75	Pltf's Brief on Proximate Cause (efficient proximate cause v. dominant proximate cause), filed. lm	
1-31-75	Pre-Trial Order, filed, as to Wilkerson Shoe Co., Pltf., vs. Underwriters Ins. Co., Deft. (FD-J)k cps mld to all counsel	

another PTO
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DATE	PROCEEDINGS	Date Order or Judgment Noted
2-3-75	Pre-Trial Order, filed, as to defs. & pltf. (FD-J)rm	
2-13-75	Trial Brief of Underwriters Insurance Co. & Home Insurance Company, filed. b	
4-11-75	Answers to interrogatories of McMichael Concrete Co., filed. hm	
5-15-75	MO: Case set for non-jury trial for Tuesday, 7/8/75 at 1:30 p.m. (FD-J)rm - notices mailed	
5-19-75	Answers to Interrogatories, filed by Deft. I.A. Jacobson. v	
6-25-75	Pltf's notice to take deposition of Richard Carter at Tulsa, OK, on 6-27-75 at 3:00 p.m., filed.k	
7-1-75	Defts. McMichael Concrete Company Answer to Petition in Intervention filed. mm	
7-1-75	Brief of McMichael Concrete Company re Statute of Limitations, filed. mm	
7-2-75	Brief of def., McMichael, to claim of Underwriters Ins., filed. rm	
7-2-75	Letter, filed, defs. (other than Underwriters) of list of witnesses to be called at trial. rm	
7-7-75	Letter, filed, from pltf. re witnesses at trial. rm	
7-8-75	Motion to dismiss, of def., United Natl., filed. rm	
7-8-75	Brief of def. United Natl. in support of mo/dismiss, filed. rm	
7-8-75	Case called for non-jury trial. Parties rep. by counsel of record. Mo/dismiss of def. United National overruled; oral mo/dismiss of def. McMichael overruled. Cases consolidated for trial only; cases not merged, all as shown in pre-trial orders. On motion of pltf., <u>complaint in 73-C-206 dismissed without prejudice w/no restrictions requested by defs. On motion of intervenor, Wilkerson, petition-in-intervention is dismissed without prejudice, w/no restrictions requested by parties. Ct. to file written Order.</u>	
7-8-75	In case 72-C-226: Complaint against Underwriters & 3rd party compl. Opening statements made. 5 p.m. Ct. adjourns to 7/9/75 at 9:30 a.m. (F. Daugherty-J)(Vera Edleman-Ctroom Deputy)(Tim Holmes-CR)rm	
7-8-75	Order of dismissal, /re 73-C-206, that action of pltf. & intervenor are dismissed without prejudice w/no restrictions.(FD-J)rm (copies md.)	
7-9-75	Non-jury trial contd. by agree., issues are separated as to compltf. & 3rd party issues. If pltf. prevails & Underwriters has to pay, 3rd party issues will be tried at later time. All evidence received in first issue will be applicable to 2nd issue. All parties are on record as concurring w/issues being separated. Pltf. presents case in chief and Pltfs. Exhibits 1-52, 53, and def. Natl. Realty's Ex. No. 1 - admitted. Ct. recesses to 7/10/75 at 9:30 a.m.(FD-J) (Vera Edleman-Deputy)(Tim Holmes-CR)rm	

(CONTINUED)

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-10-75	Non-jury trial continued, w/pltf. case in chief. On 7/9/75, pltf. marked two exhibits as No. "51" and both were adm. At Ct.'s direction, photo marked as 51-a and diagram in 3 parts marked as 51. Pltf. Exh. 54-55-56 adm. Deft. Natl. Realty's Ex. 2-4 adm. Pltf. rests. Def. Underwriter moves to dismiss - and is overruled. Deft. Underwriters presents case in chief. Deft. Ex. 1-5, 7-69 adm. Pltf. Ex. 57 adm. Def. rests. On rebuttal, dep. of Alice Williams, pgs. 3-48 marked as Pltf. X. 57. Various mo/dismiss overruled. Oral arguments waived. Case submitted for decision. (FD-J)(Vera Edleman-Ct.room Clerk)(Tim Holmes-CR)rm	
7-23-75	Letter, dated 1/11/74, filed, from McDaniel to FD, re briefing requirements of PT conf. of 12/73. rm	
7-30-75	Memorandum opinion (Case 72-C-226), filed and entered.(FD-J)rm-copies	
7-30-75	Judgment (Case 72-C-226), filed and entered, that action in pltf. complaint is dismissed and action contained in 3rd party complaint is dismissed. (FD-J)rm - copies mailed	

DATE	PROCEEDINGS	Date Order or Judgment Noted